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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ROBERT RAMIREZ, ROBERT
HARRIS, LUIS POCASANGRE
CARDOZA, JOSE SALCEDO, A.
SHAPPELLE THOMPSON,
CORETTA SILVERS (formerly
VICK), SANDRA EVANS, BLANCA
NELLY AVALOS, JAMES MORGAN
and ANTHONY JONES, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

CINTAS CORPORATION,

Defendant.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff/Intervenor.

CASE NO. C04-0281-JSW

[RELATED TO CASE NO. C05-03145-JSW]

**JOINT STIPULATION OF DISMISSAL
OF PLAINTIFF A. SHAPPELLE
THOMPSON'S INDIVIDUAL CLAIMS
WITH PREJUDICE AND HIS
PUTATIVE CLASS CLAIMS ON
BEHALF OF CERTAIN CURRENT
AND FORMER AFRICAN AMERICAN
EMPLOYEES WITHOUT PREJUDICE
AND ~~PROPOSED~~ ORDER**

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RECITALS

WHEREAS, on August 3, 2005, Plaintiff A. Shappelle Thompson (“Thompson”) filed his Fourth Amended Complaint (“FAC”) asserting claims on behalf of himself and as a putative class representative for certain present and former employees of Defendant Cintas Corporation (“Cintas”);

WHEREAS, in the FAC, Thompson individually asserted claims under the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 (“Section 1981”), specifically contending that because of his race, Cintas took away one of his better accounts, reassigned him to an undesirable service sales representative (“SSR”) route, and terminated his employment (FAC ¶ 11);

WHEREAS, in the FAC, Thompson sought to assert claims as a class representative on behalf of African American current or former employees who have held SSR positions in Cintas’ Rental Division and allegedly have been subjected to discriminatory practices with regard to SSR route assignments in violation of Section 1981 (FAC ¶¶ 41-42, 48(d), 58-62, 83(d);

WHEREAS, on March 22, 2005, this Court ordered Thompson to arbitrate and stayed this action as to his claims pending completion of an arbitration proceeding in this judicial district;

WHEREAS, the parties thereafter commenced arbitration, *inter alia*, of Thompson’s claims before The Honorable Eugene Lynch (Ret.), who has issued a clause construction award but has not commenced proceedings on the merits of Thompson’s claims;

WHEREAS, Thompson hereby dismisses with prejudice all of his individual claims alleged in the FAC;

WHEREAS, Thompson thus is not an adequate class representative for any form of relief sought on behalf of the putative class of African American current or former SSR employees who allegedly have been subjected to discriminatory route assignment

1 practices in violation of Section 1981, as described in paragraphs 41-42, 48(d), 58-62, and
2 83(d) of the FAC;

3 WHEREAS, Thompson has agreed to withdraw as a class representative and
4 seeks the Court's permission to dismiss without prejudice his claims on behalf of African
5 American current or former SSR employees in Cintas' Rental Division who allegedly
6 have been subjected to discriminatory route assignment practices in violation of Section
7 1981, as described in paragraphs 41-42, 48(d), 58-62, and 83(d) of the FAC, but not the
8 claims asserted by James Morgan on behalf of African American SSR's, in exchange for
9 Cintas' waiver of its right to recover costs against Thompson pursuant to Federal Rule of
10 Civil Procedure 54(d); and

11 WHEREAS, the parties have agreed that Plaintiffs' counsel will not include
12 any attorneys' fees or costs incurred as part of maintaining Thompson's individual claims
13 or his class claims should they later apply for an award of attorneys' fees or costs in this
14 litigation. However, if Plaintiffs or Plaintiffs' counsel apply for an award of attorneys'
15 fees and costs, this stipulation will not preclude them from asserting that some portion of
16 the time spent on the class claims asserted by Thompson should be allocated to another
17 claim on which Plaintiffs prevailed; and nothing in this stipulation will preclude
18 Defendant from asserting any legal arguments in opposition to such an allocation.

20 STIPULATION

21 THE PARTIES, BY AND THROUGH THEIR COUNSEL, HEREBY
22 STIPULATE AS FOLLOWS:

23 1. Plaintiff A. Shappelle Thompson dismisses with prejudice all of his
24 individual claims asserted in the FAC for discrimination in violation of Section 1981;

25 2. Plaintiff Thompson withdraws as a named, representative plaintiff
26 and dismisses without prejudice his claims on behalf of African American current or
27 former employees who have held SSR positions in Cintas' Rental Division and allegedly
28 have been subjected to discriminatory practices with regard to SSR route assignments in

1 violation of Section 1981, as described in paragraphs 41-42, 48(d), 58-62, and 83(d) of the
2 FAC, but not the claims asserted by James Morgan on behalf of African American SSR's;

3 3. Plaintiffs' counsel will not include any attorneys' fees or costs
4 incurred as part of maintaining Thompson's individual claims or the class claims
5 Thompson has asserted, should they later apply for an award of attorneys' fees or costs in
6 this litigation. However, if Plaintiffs or Plaintiffs' counsel apply for an award of
7 attorneys' fees and costs, this stipulation will not preclude them from asserting that some
8 portion of the time spent on the class claims asserted by Thompson should be allocated to
9 another claim on which Plaintiffs prevailed; and nothing in this stipulation will preclude
10 Defendant from asserting any legal arguments in opposition to such an allocation; and

11 4. Cintas waives its right to recover costs against Plaintiff A. Shappelle
12 Thompson after the dismissal of his individual and putative class claims as permitted by
13 Federal Rule of Civil Procedure 54(d).

14 DATED: March 2, 2009

15 ~~Respectfully submitted,~~

16 By: 

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27 *Counsel for Plaintiffs Robert Ramirez, et al.*
28

1 DATED: March 2, 2009

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Counsel for Defendant Cintas Corporation

ORDER**BASED ON THE PARTIES' STIPULATION AND GOOD CAUSE**

APPEARING THEREFORE, this Court DISMISSES WITH PREJUDICE Plaintiff A.

Shappelle Thompson's individual claims that Cintas has discriminated against him in violation of Section 1981. *See also Order Granting Unopposed Motion to Dismiss Plaintiffs' Putative Class Claims, issued this date.*

This Court further finds that Plaintiff A. Shappelle Thompson is not an adequate class representative and may not represent the putative class of African American current or former SSR employees in Cintas' Rental Division who allegedly have been subjected to discriminatory route assignment practices in violation of Section 1981, as described in paragraphs 41-42, 48(d), 58-62, and 83(d) of the FAC, and that Plaintiff Thompson seeks dismissal of the claims he sought to bring on behalf of the putative class, and on this basis this Court DISMISSES WITHOUT PREJUDICE the claims in the FAC that Plaintiff Thompson sought to bring on behalf of African American current or former employees who have held SSR positions in Cintas' Rental Division who allegedly have been subjected to discriminatory route assignment practices in violation of Section 1981 and all of his claims for relief for such discrimination.


This Court also finds that Plaintiffs' counsel is not entitled to recover any amount in attorneys' fees and costs attributable to pursuing Thompson's individual claims herein or his class claims in the FAC alleging that similarly situated African American current or former SSR employees in Cintas' Rental Division have been subjected to discriminatory route assignment practices in violation of Section 1981. Pursuant to the parties' agreement, Plaintiffs' counsel will not include any such attorneys' fees or costs incurred as part of maintaining Thompson's individual claims or the class claims Thompson has asserted should they later apply for an award of attorneys' fees or costs in this litigation. However, if Plaintiffs or Plaintiffs' counsel apply for an award of attorneys' fees and costs, this Order will not preclude them from asserting that some portion of the time spent on the class claims asserted by Thompson should be allocated to

1 another claim on which Plaintiffs prevailed, and likewise will not preclude Defendant
2 from asserting any legal arguments in opposition to such an allocation.

3 Finally, the Court finds that Cintas may not recover costs against Plaintiff A.
4 Shappelle Thompson as it would be otherwise permitted by Federal Rule of Civil
5 Procedure 54(d).

6
7 IT IS SO ORDERED.

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9 DATED: April 3, 2009, 2009


HONORABLE JEFFREY S. WHITE
United States District Judge